

### **Remarks**

Claims 1 - 19 remain pending. Claims 1, 4, 12, and 13 have been amended herein.

#### **1. Drawings:**

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(4). A proposed drawing correction on a separate sheet is being filed herewith. Amendment to the specification has been made to change reference character "16" associated with the top panel to reference character "17".

#### **2. Claim Rejections 35 U.S.C. §103**

Claims 1-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rehbein in view of Clear and Morana (EP 0 485297A1).

It is submitted that Rehbein, Clear, and Morana combined fail to disclose, teach or suggest an apparatus comprising a plurality of elongated panel support members according to the present invention.

The combination of Rehbein, Clear and Morana, even if proper, would fail to yield the modular deck panel system and apparatus of the present claims, e.g., a plurality modular panels and a plurality of elongated panel support members, wherein a first portion of the plurality of elongated panel support members are secured along top surfaces of the joist elements, and a second portion of the plurality of elongated panel support members span across successive joist elements to engage multiple ones of the members of the first portion. Figures 7 through 13 illustrate one embodiment of the invention as presently claimed, wherein a first-type elongated support member is indicated by reference numeral 40 and secured along a top surface of an underlying joist by fasteners extending through apertures 46 and a second-type elongated support member indicated by reference numeral 42 and engaging multiple ones of the first-type of support members as it spans across successive joist members. *See*, lines 3 – 25, page 7.

Regarding claim 1, the combination of Rehbein, Clear and Morana, even if proper, would fail to teach or suggest first and second elongated panel support members, wherein each of the

first-type elongated panel support members is secured at intervals along a top surface of an associated joist, and wherein each of the second-type of support members spans across successive joists and engages successive first-type support members.

Regarding claims 4, 12 and 13, the combination of Rehbein, Clear and Morana, even if proper, would fail to teach or suggest first-type and second-type elongated panel support members, wherein each of the first-type of elongated panel support members is secured along a top surface of an associated joist, and wherein each of the second-type of support members spans across successive joists and engages successive first-type support members.

### **3. Request for Reconsideration and Allowance**

Based upon the above Amendments and Remarks, claims 1-19 are believed to be in proper form for allowance, and patentable over the prior art made of record. Applicant respectfully requests reconsideration of those claims and a prompt Notice of Allowance thereon.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached pages are captioned "Version with markings to show changes made."

Please direct any questions or comments regarding this application to John F. Klos at (612) 321-2806.

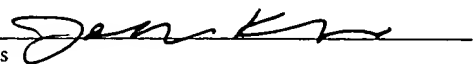
Respectfully submitted, John Potter, by his attorneys,

Date: August 22, 2002



John F. Klos, Reg. No. 37, 162  
FULBRIGHT & JAWORSKI, LLP  
225 SOUTH SIXTH STREET #4850  
MINNEAPOLIS, MN 55402

**CERTIFICATE OF MAILING UNDER 37 CFR 1.8:** I hereby certify that this paper and any papers referred to herein are being deposited with the U.S. Postal Service, as first class mail, postage prepaid, addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231 on August 22, 2002.



John F. Klos  
25201093.1



**VERSION WITH MARKINGS TO SHOW CHANGES MADE (8/22/02)**

**In the specification:**

Please replace the paragraph beginning on line 21, page 5 and ending on line 6, page 6 with the following:

Focusing first on the deck panels or modules 10, and with reference to Figs. 3-6, the manufacture of the prefabricated deck panels 10 may include a variety of known materials and processing techniques. For instance, the deck panel 10 may be a unitary cast concrete-based module 10 (not shown) having a grid of reinforcing elements retained within the concrete. The reinforcing elements may be metal webbing or possibly polymer strips. Alternatively, and as illustrated in FIGS. 3 and 4, the module 10 may include an upper layer [16] 17 disposed upon a plywood-type material support structure 18. Upper layer [16] 17 of the module panels 10 may be decorated with known concrete finishing techniques to imitate a variety of natural stone products (for instance, BOMANITE® finishes, etc.). Alternatively, the upper layer [16] 17 may be decorated with brick patterns (random, interlocking, ashlar, etc.). A variety of decorative finishes for a concrete-based deck panel 10 are thus envisioned from plain unfinished concrete to imitation stone or brick.

**In the claims:**

Please amend the claims as follows:

1. (twice amended) A modular deck panel apparatus for a deck structure including a plurality of underlying joist elements, each one of said plurality of joist elements having a top longitudinal surface, said modular deck panel apparatus comprising:

a plurality of modular panels, each of the plurality of modular panels having a first substantially planar element being relatively inflexible, and

a second substantially planar element disposed beneath the first planar element and secured thereto, said second planar element being relatively flexible in relation to the first planar element; and

**RECEIVED**

SEP 05 2002

**GROUP 3600**

a plurality of elongated members, [at least some] a first portion of the plurality of elongated members being secured at intervals along top longitudinal surfaces of [to] a series of underlying joist elements, and a second portion of the plurality of elongated members spanning between successive joist elements and engaging the first portion of the plurality of elongated members to restrain the plurality of modular panels.

4. (twice amended) A modular deck panel apparatus for a deck structure including a plurality of horizontal joist elements, said modular deck panel apparatus comprising:

a plurality of modular panels, each having a first substantially planar element being relatively inflexible and of a material selected from among the group including: stone, mineral, tile, and concrete product; and

a second substantially planar element of a material different than the first planar element, said second planar element being disposed beneath the first planar element and coupled thereto, said second planar element having a predetermined total area, said second planar element supporting the deck panel upon the deck structure at a panel support area, said panel support area being substantially smaller than the predetermined total area; and

a plurality of elongated members, [at least some] a first portion of the plurality of elongated members being secured along top longitudinal surfaces of [to] a series of horizontal joist elements, and a second portion of the plurality of elongated members spanning between successive joist elements and engaging the first portion of the plurality of elongated members to restrain the plurality of modular panels

12. (twice amended) A deck structure comprising:

a deck frame including a series of joists arranged at a generally uniform spacing; and

a plurality of modular panels secured to said deck frame by a plurality of elongated members, [at least some] a first portion of said plurality of elongated members being secured to a series of joists along top longitudinal surfaces thereof, and a second portion of said plurality of elongated members extending across multiple joists and engaging the first portion to support the

plurality of modular panels against lateral movement, each panel being of a composite layered construction including a top side and a bottom side, each panel including a first layer element defining the top side and of a material providing substantial compressive strength and limited tensile strength, each panel further including a second layer element defining the bottom side and coupled to the first layer element, said second layer element of a material providing substantial tensile strength.

13. (twice amended) A building product for flooring an area of substructure, said building product comprising:

a plurality of modular panels secured to the substructure by a plurality of elongated members, [at least some] a first portion of said plurality of elongated members being secured across a series of joists along top surfaces thereof, and a second portion of said plurality of elongated members extending across multiple joists and engaging the first portion to support the plurality of modular panels against lateral movement, each panel being of a composite layered construction including a top side and a bottom side, each panel including a first layer element defining the top side and of a material providing substantial compressive strength and limited tensile strength, each panel further including a second layer element defining the bottom side and coupled to the first layer element, said second layer element of a material providing substantial tensile strength.